

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

20230930-DK-BUTTERFLY-1, INC., f/k/a
BED BATH & BEYOND INC.,

Plaintiff,

– v. –

RYAN COHEN and
RC VENTURES LLC,

Defendants.

ECF CASE

No. 24-cv-5874 (NRB)

**DECLARATION OF JAMES A. HUNTER
IN OPPOSITION TO THE COHEN DEFENDANTS’ MOTION TO DISMISS**

I, James A. Hunter, hereby declare under 28 U.S.C. § 1746 as follows:

1. I am counsel to Plaintiff 20230930-DK-Butterfly-1, Inc., f/k/a Bed Bath & Beyond Inc. (“BBBY”), in the case captioned above. I am licensed to practice law in the State of New York and the Commonwealth of Pennsylvania and have been admitted to practice before this Court.

2. I submit this declaration on BBBY’s behalf and in opposition to the motion of Defendants Ryan Cohen and RC Ventures LLC (collectively, the “Cohen Defendants”) to dismiss BBBY’s First Amended Complaint. The purpose of the declaration is to place before the Court documents whose contents the Court may judicially notice in ruling on the Cohen Defendants’ motion.

3. This declaration is made based on my personal knowledge. If called to testify, I would testify consistently with this declaration.

4. Attached as Exhibit A to this declaration is a press release BBY issued on January 6, 2022 to report its earnings for its fiscal 2021 third quarter ended November 27, 2021, in the form in which I downloaded the press release from the SEC's EDGAR system.

5. Attached as Exhibit B to this declaration are excerpts from the memorandum of law the Cohen Defendants filed on November 8, 2023 in support of their motion to dismiss the complaints in *In re Bed Bath & Beyond Inc. Section 16(b) Litigation*, No. 22-cv-9327-DEH (S.D.N.Y. Nov. 8, 2023) (Dkt. 65).

I declare under penalty of perjury that the foregoing is true and correct. Executed on January 13, 2025.

/s/ James A. Hunter
James A. Hunter